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EXAMINER

COBURN, CORBETT B

ART UNIT PAPER NUMBER

3714

DATE MAILED: 08/20/2003

12

Please find below and/or attached an Office communication concerning this application or proceeding.

EC

Office Action Summary

Application No.

09/927,742

Applicant(s)

KAMINKOW, JOSEPH E.

Examiner

Corbett B. Coburn

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-57 and 104 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-57 and 104 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-22, 24-27, 29-41, 44-46, 48-53 & 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al. (US Patent Number 6,379,247) in view of Cumbers (US Patent Number 6,142,876).

Claims 1, 14: Walker teaches a method for awarding player-tracking points to patrons of a gaming establishment. (Abstract & Title) The dealer determines when the patron has begun an activity for which player tracking points/comps are accrued and accrues the points to the player without initiating a player tracking session or receiving identification information or account information from the player. (Fig 10a) The player is awarded the accrued points. (Fig 10b, 1038) Points are awarded for an entertainment purchase (i.e., for gaming activity) and are thus combinable with loyalty points earned from playing a game of chance at the gaming establishment.

Walker does not teach implementing the system in a mechanism or automatically determining that the patron has begun an activity for which player-tracking points accrue. Cumbers teaches implementing the system in a mechanism (i.e., a slot machine) and automatically determining that the patron has begun an activity for which player-tracking points accrue. (Abstract)

Slot machines are among the more popular games in any casino. They are also among the most profitable. One reason that they are so profitable is because they do not require excessive dealer intervention. It would have been obvious to one of ordinary skill in the art to have implemented Walker's system on slot machines as suggested by Cumbers and automatically determining that the patron has begun an activity for which player-tracking points accrue in order to take advantage of the tremendous popularity of slot machines while maintaining the high levels of profits that accrue because the slot machines do not require excessive dealer intervention.

Claims 2, 16: Walker teaches that the gaming establishment is a casino. (Title)

Claims 3, 17: Walker teaches that the gaming entity has a plurality of venues – i.e., gaming tables (112).

Claims 4, 18: Walker teaches the invention substantially as claimed, but does not teach applying the system to gaming machines. Cumbers, another system for awarding comps without direct player input, teaches awarding comps for play on gaming machines.

Casinos have many patrons who play gaming machines. Of these, many play only at the gaming machines. Gaming machines are a source of tremendous profit for the casino.

Casinos have found that awarding comps to players increases the likelihood that the player will return to the casino to gamble in the future. It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified Walker to award player tracking points to patrons who play gaming machines, as suggested by Cumbers, in order to increase the likelihood that the player will return to the casino to gamble in the future, thus ensuring future profits.

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Claims 5, 19: Walker teaches that the player may receive player tracking points for playing “blackjack, craps, roulette, poker, and the like.” (Col 3, 50-52) These are games of chance.

Claims 6, 26, 27: Walker’s Fig 10a shows that the player tracking points begin accruing without receiving player tracking information or a player tracking card from the player.

Claim 7: Walker teaches that the player has a player tracking account with the gaming establishment. (Fig 9)

Claims 8, 29: Walker teaches that the patron has a player tracking account with the casino. (Fig 9) The player tracking points may be awarded to the patron anonymously, without crediting the player tracking account. (Col 8, 18-20)

Claims 9, 30: In one of Walker’s embodiments, the player is awarded frequent flyer miles without reference to the player account. (Col 10, 23-33) The player merely informs the casino which frequent flyer account (as opposed to casino player tracking account) the frequent flyer miles should be assigned to. (Col 10, 31-33) Frequent flyer miles can be considered to be “comps”.

Claim 10: Walker’s player tracking points are stored on a loyalty program instrument. (Fig 10b, 1036)

Claims 11, 31: Walker teaches crediting the player tracking points stored on the loyalty program instrument to a player tracking account of the patron. (Col 12, 5-20 & 55-67)

Claims 12, 33: Walker teaches that the loyalty point instrument is a printed ticket. (Col 5, 28-32)

Claims 13, 21, 22: Walker teaches that the activity for which player-tracking points accrue (playing a gambling game) occurs in a venue within, and therefore, affiliated with, the gaming establishment – i.e. gaming table (112).

Claim 15: Walker teaches a method for awarding player-tracking points to patrons of a gaming establishment. (Abstract & Title) The dealer determines when the patron has begun an activity for which player tracking points/comps are accrued and accrues the points to the player without the player initiating a player tracking session. (Fig 10a) The player is awarded the accrued points (Fig 10b, 1038) that are issued to the player. (Fig 10b, 1036, 1038) Fig 10a shows that the player tracking points accrue without receiving player tracking information (identification information, account information, or a combination thereof) from the player.

Claim 20: Walker teaches that the activity for which a patron may receive player-tracking points is an entertainment purchase – i.e., gambling. Gambling is entertainment.

Claim 24: Walker teaches that the loyalty points stored on the loyalty instrument are redeemable for comps. (Col 12, 55-67)

Claim 25: Walker teaches that the rate at which the patron accrues loyalty points varies according to the amount wagered. (Col 4, 39-65)

Claims 32, 35: Walker teaches that the loyalty points are credited to the patron's player tracking account or redeemed for comps using a cashier station. (Col 3, 59-62)

Claim 34: Walker teaches that the loyalty program instrument is designed to store a validation number. (Fig 10b, 1112)

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Claim 36: Walker teaches detecting a first game event initiated by the game player (a bet) and accruing loyalty points in response thereto. (Col 2, 63-65) Walker teaches determining a second gaming event – player decides to stop playing. (Fig 10a, 1022) The system determines the total number of loyalty points that have accrued to the game player and issues the player a loyalty point instrument designed to store the awarded loyalty points. (Figs 10 a & b) The system issues loyalty points without receiving identification from the game player.

Walker does not teach applying the system to gaming machines. Cumbers, another system for awarding comps without direct player input, teaches awarding comps for play on gaming machines. Casinos have many patrons who play gaming machines. Of these, many play only at the gaming machines. Gaming machines are a source of tremendous profit for the casino. Casinos have found that awarding comps to players increases the likelihood that the player will return to the casino to gamble in the future. It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified Walker to award player tracking points to patrons who play gaming machines, as suggested by Cumbers, in order to increase the likelihood that the player will return to the casino to gamble in the future, thus ensuring future profits.

Claims 37, 40: The loyalty program instrument is designed to store a validation number. (Fig 10b, 1112) This is information.

Claim 38: Walker teaches that the loyalty point instrument is a printed ticket. (Col 5, 28-32)

Claim 39: Walker teaches that the first event is placing a wager. This is analogous to depositing indicia of credit into a gaming machine.

Claim 41: Walker teaches issuing a loyalty program instrument when the player decides to leave the game. (Fig 10a, 1022) This is analogous to detecting a player request for a loyalty program instrument or detecting zero credits.

Claim 44: Walker teaches displaying the amount of loyalty points to the game player. (Fig 10a, 1018)

Claims 45 & 46: Walker teaches storing loyalty point transaction information on a memory device (416) located at the gaming table. The gaming table is analogous to the gaming machine. The device is on, but not inside the gaming table. (Fig 3)

Claim 48: Walker's Fig 10a clearly discloses that game play sequences for one or more games may be presented between the first and second gaming events.

Claim 49: Walker teaches that the player may receive player tracking points for playing "blackjack, craps, roulette, poker, and the like." (Col 3, 50-52) These are games of chance. The video versions of these games are notoriously well known.

Claim 50: The rate at which the patron accrues loyalty points varies according to the amount wagered. (Col 4, 39-65)

Claims 51, 52: Fig 10a shows that the player tracking points begin accruing without receiving player tracking information or a player-tracking card from the player.

Claim 53: Walker teaches issuing a loyalty program instrument (i.e., a receipt). (Fig 10b, 1038) This is performing a loyalty program instrument transaction.

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Claim 55: Walker teaches that the accrued loyalty points are determined by a logic device (Fig 4, 410) located on the gaming table. This is analogous to being located on the gaming machine.

3. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Walker and Cumbers as applied to claim 22 above, and further in view of Boushy (US Patent Number 5,761,647).

Claim 23: Walker and Cumbers teach the invention substantially as claimed. Walker and Cumber do not teach communication between venues and the gaming establishment via the Internet. Boushy teaches a national customer recognition system in which various gaming venues communicate with a gaming establishment via a Wide Area Network (102). The Internet is a well-known Wide Area Network. Linking several venues via a Wide Area Network allows players to accumulate points at affiliated casino properties. This encourages patrons to visit affiliated casinos as they travel about the world. This translates to higher profits within a family of casinos. It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the invention suggested by Walker and Cumbers to include communication between venues and the gaming establishment via the Internet as suggested by Boushy in order to create a national customer recognition that allows players to accumulate points at affiliated casino properties thus encouraging patrons to visit affiliated casinos as they travel about the world and generating to higher profits within a family of casinos.

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4. Claims 42, 43, 54, 56, & 57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker and Cumbers as applied to claim 36 above, and further in view of Burns et al. (US Patent Number 6,048,269).

Claim 42: Walker and Cumbers teach the invention substantially as claimed. Walker teaches determining the amount of loyalty points stored on a first loyalty point instrument and validating the first loyalty point instrument. When the first loyalty point instrument has been validated, the loyalty points stored thereon are added to an amount of loyalty points awarded to the game player. (Fig 11) Walker, however, teaches that the redemption/validation process occurs at a cashier station instead of at a gaming machine. Burns teaches reading tickets that are analogous to the loyalty point instrument at the gaming machine. This provides greater convenience to the player by allowing the player to redeem the loyalty point instruments at more locations. It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the invention suggested by Walker and Cumbers to allow players to redeem/validate loyalty point instruments at a gaming machine as suggested by Burns in order to provide greater convenience to the player.

Claim 43: Walker and Cumbers teach the invention substantially as claimed. Walker, however, teaches the loyalty point instruments are input by the cashier. Burns teaches a ticket reader (206). Having a ticket reader handle the input instead of a cashier reduces costs to the casino because they do not have to have as many employees. It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the invention suggested by Walker and Cumbers to have the loyalty point

instrument input using a ticket reader as suggested by Burns in order to reduce the number of employees a casino needed, thus reducing costs.

Claim 54: Walker and Cumbers teach the invention substantially as claimed, but do not specifically teach redeeming the comps earned for plays on the gaming machine. Burns teaches redeeming free play tickets (Fig 3) for a particular game. (Col 5, 46-65) Free play on a gaming machine is often given as comps. This allows the casino to give the player a loyalty award that keeps the player gambling. This boosts casino profits. It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the invention suggested by Walker and Cumbers allow the loyalty program instrument to be redeemed for play on a gaming machine as suggested by Burns in order to keep players gambling, thus increasing casino profits.

Claim 56: Walker and Cumbers teach the invention substantially as claimed, but do not teach configuring the game machines to communicate loyalty program information to a second gaming machine. Walker teaches issuing a ticket with loyalty program information. Burns teaches that the tickets issued by a gaming machine can be used to communicate with other gaming machines. Allowing players to use tickets issued by one gaming machine on another gaming machine encourages a player to continue gambling. It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the invention suggested by Walker and Cumbers by configuring the game machines to communicate loyalty program information to a second gaming machine as suggested by Burns in order to encourage the players to continue gambling, thus increasing casino profits.

Claim 57: It is well known for players to play two different gaming machines simultaneously. Obviously, the player would accrue loyalty points on both machines. Walker teaches issuing a single ticket representing the combined loyalty points awarded in a number of games. (Figs 10a & b) Walker also teaches that the player may receive a number of receipts, each representing an amount of loyalty points awarded. (Col 12, 15-20) Walker teaches communicating the number of loyalty points awarded to a central location (the cashier's terminal) where they are combined. (Figs 11 - 12)

Walker and Cumbers teach the invention substantially as claimed, but do not teach configuring the game machines to communicate loyalty program information to a second gaming machine or printing a combined loyalty program instrument from the second gaming machine. Walker teaches issuing a ticket with loyalty program information. Burns teaches that the tickets issued by a gaming machine can be used to communicate with other gaming machines. Allowing players to use tickets issued by one gaming machine on another gaming machine encourages a player to continue gambling. When the player is finished with the second gaming machine, it prints out a single consolidated ticket. This increases player convenience because the player only has to keep up with one ticket. It would have been obvious to one of ordinary skill in the art at the time of the invention to have configured the game machines to communicate loyalty program information to a second gaming machine in order to encourage the players to continue gambling, thus increasing casino profits. It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the invention suggested by Walker and Cumbers to print out a single consolidated loyalty program

instrument in order to increased player convenience by reducing the number of tickers the player would have to keep up with.

Claim 104: Walker teaches accruing player tracking points without initiating a player tracking session.

5. Claim 47 is rejected under 35 U.S.C. 103(a) as being unpatentable over Walker and Cumbers as applied to claim 36 above, and further in view of Kelly et al. (US Patent Number 5,816,918).

Claim 47: Walker and Cumbers teach the invention substantially as claimed. Both Walker and Cumbers disclose that the comps may take many forms, but neither teaches the details of redeeming comps in forms other than as frequent flyer miles. Kelley teaches a prize redemption system that displays a prize menu including one or more prizes redeemable for an amount of loyalty points. (Fig 6, 334) The system then receives a prize selection selected from the prize menu. (336) If the patron has enough loyalty points for the selected prize, the system issues a loyalty program instrument used to redeem the selected prize. (337) It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the invention suggested by Walker and Cumbers to include a prize menu from which a player may choose a prize and issue a loyalty program instrument redeemable for that prize (providing the player has enough loyalty points to purchase the prize) as suggested by Kelly in order to implement Walker's and Cumbers' disclosure that comps may be redeemed for a number of goods and services.

Response to Arguments

6. Applicant's arguments filed 22 July 2003 have been fully considered but they are not persuasive.

7. Applicant argues that Cumbers teaches away from the invention. This is not the case. Cumbers suggests to one of ordinary skill in the art that comps may be awarded for slot machine play. The fact that Cumbers requires player identification does not suggest that it is impossible to grant comps on a slot machine without requiring player identification. The combination of Walker and Cumbers does not "destroy the reference". It does not render either reference unsatisfactory for its intended use or change the principles of operation either reference – players are awarded comps in both cases.

8. Applicant also argues that the motivation to combine Walker and Cumbers suggested by the Examiner is not valid. The profit motive is well known and well recognized. The vast majority of the money taken in by the casino industry is from play of gaming or slot machines. Examiner has been told by practitioners of the art that over 70% of the average casino's handle comes from gaming machines. They are tremendously popular with both the gaming public and the casino industry. They are much more popular than table games. Therefore, any advance in the art that makes a table game more popular is likely to be adapted to the far-more profitable area of gaming machines if at all possible.

9. Applicant asks how Walker would be modified to automatically award anonymous comps. This is simple. Walker teaches awarding comps when the player loses. (Fig 10a) Cumbers suggests awarding comps on a slot machine. A slot machine is certainly capable of detecting when a player loses. It would have been obvious to one of ordinary skill in the art at

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the time of the invention to have modified Walker for use on a slot machine (as suggested by Cumbers) to award comps points without getting player identification or account information whenever a player loses. In short, if one of ordinary skill in the art took Fig 10a and substituted “slot machine” for “dealer”, this would, in essence, be Applicant’s invention.

10. Applicant argues that Burns’ ticket is different from a loyalty point ticket. Applicant’s argument lacks merit. Burns suggests that a ticket reader may be used in conjunction with a card reader. It is not necessary that this ticket be a loyalty point ticket. If Burns read loyalty point tickets, it would anticipate Applicants invention under 35 USC §102. Examiner admits that Burns does not anticipate Applicant’s invention. But Examiner is required to apply all of the patent laws including 35 USC §103. This requires Examiner to look at the art as a whole and see if Applicant’s invention would have been obvious to one of ordinary skill in the art at the time of the invention. Walker prints tickets. (Fig 10b, 1036) These tickets are entered into a computer system by a cashier. (Fig 11, 1112) Having a person perform this task costs money. Clearly, it is better to automate this task if possible in order to save money. Burns suggests using an automatic ticket reader (206) in connection with a slot machine. Furthermore, Burns suggests that adopting this suggestion will reduce costs to the casino. (Col 1, 22-37) This provides a motivation for the combination of these references. The fact that the tickets may be called by different names is of no consequence. The simple fact is that both represent something of value to the player – they are essentially the same. In both cases the tickets are read and the values represented are used by a casino’s accounting system.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Acres (US Patent Number 6,319,125) discloses slot machines that use anonymous accounts.

12. This is an RCE of applicant's earlier Application No. 09/927742. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Corbett B. Coburn whose telephone number is (703) 305-3319. The examiner can normally be reached on 8-5:30, Monday-Friday, alternate Fridays off.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on (703) 308-1806. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.



cbc
August 14, 2003



JESSICA HARRISON
PRIMARY EXAMINER